

March 3, 1994

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No. 94-2E

Re: Request for Elections Advisory Opinion No. 93-2A-1223-1 Use of City Facilities To Assist  
A Civil Service Commission Candidate

Dear \*\*\*\*\*.

You ask if the Ethics or Elections Codes prohibit a City employee who is not a Civil Service Commission candidate from using City facilities to assist a candidate for Civil Service. The brief answer is no, the Code does not prohibit such use of City facilities. The Code does not, however, entitle employees to assist such candidates at the expense of performing their official duties.

## STATEMENT OF FACTS

During the last Civil Service Commission election, an employee sent an E-Mail on the City's network urging employees to vote for one of the candidates. The E-Mail was sent without the permission of the employee's manager. When the acting director of the department told the employee that she objected to that use of the City's facilities, the employee showed her a copy of a memo issued by the City Clerk that quoted a Commission advisory opinion to argue that the use was not prohibited. The cited opinion, however, only addressed the right of a candidate to use City facilities, not whether an employee who was not a candidate could use the facilities for that purpose.

## ANALYSIS

**1. City employees are not prohibited from using City facilities to assist the campaigns of candidates for Civil Service Commission (regular and public safety) and Retirement Board (regular, police and fire).**

In *Op Sea Ethics & Elects Comm'n 3E at 4* (1993), we advised that the Elections Code (SMC 2.04.300) prohibition against using City facilities to assist a candidate does not apply to elections in which the electorate are City employees, not registered voters.

We also advised that candidates for Civil Service Commission (regular and public safety) or Retirement Board (regular, police or fire), do not violate the Code of Ethics (SMC 4.16.0870(2)(b)) prohibition against using the City's facilities for other than a City purpose by using City facilities to campaign for those positions. *Op Sea Ethics & Elects Comm'n 3E at 4* (1993). We reasoned that

those commissions and boards are City agencies that were established by ordinance for a City purpose. We concluded that campaigning for the positions serves a City purpose, because campaigning is necessary to meet the election requirements contained in the enabling ordinances.

Since the City employs over 10,000 people, candidates who wish to win these positions may require some assistance in putting their names before all of the eligible electors. Therefore, we advise that City employees are not prohibited from using City facilities to assist candidate campaigns for Civil Service Commission (regular and public safety) and Retirement Board (regular, police and fire), because such use serves the City purpose of fulfilling the ordinances' election requirements.

**2. The Code does not authorize City employees to assist Civil Service Commission (regular and public safety) and Retirement Board (regular, police and fire) candidates at the expense of the performance of their official duties.**

In *Op Sea Ethics & Elects Comm'n 3E at 4* (1993), we cautioned that the right to use the facilities for this purpose did not constitute permission to ignore official duties in order to campaign.

**This opinion does not constitute a license for Police Retirement Board or Firefighters' Pension Board [Civil Service Commission, Public Safety Civil Service Commission or City Retirement Board] candidates to spend entire working days campaigning for these positions. The right to use the City's facilities must be tempered by the obligation to perform the official duties for which the employee is being paid. The Commission urges that candidates and managers be cautious about the use of time and equipment for this purpose. Monitoring the amount of time spent campaigning and the amount of use of the City's facilities for that purpose, however, is in management's jurisdiction, not the Commission's.**

The absence of a prohibition against using the City's facilities to campaign for Civil Service and similar positions does not absolve employee candidates or employees who assist them from the obligation to perform official duties and does not absolve management from the obligation to monitor the prudent use of facilities and employee performance. Therefore, candidates and employees who assist such candidates may not campaign in a way that impinges upon the performance of their official duties. In this case, even though reasonable use of E-Mail to assist a Civil Service Commission candidate is not prohibited by the Codes, the department acting director should reasonably monitor such use to ensure that abuses do not occur.

**CONCLUSION**

The Elections Code does not apply to elections in which the electorate are not registered voters, e.g., Civil Service Commission elections. Reasonable use of City facilities to campaign for one's own candidacy or for someone else's candidacy for Civil Service (regular and public safety) and

Retirement Board (regular, police and fire) positions is not prohibited by the Code of Ethics. Such campaigning serves the City purpose of providing elections to fill the positions, as provided by enabling ordinances. Candidates and employees who assist candidates are not entitled, however, to use the City's facilities for these purposes in a way that impinged upon the performance of their official duties.

The Commission's advisory opinion is based upon the facts as stated above. Please be aware that modification or change of the facts might cause the Commission to reach a different conclusion.

FOR THE SEATTLE ETHICS AND ELECTIONS COMMISSION

Carolyn M. Van Noy,  
Executive Director

This action was reviewed and approved by the Commission at its regular meeting of March 2, 1994. The Commission members voting to take this action were:

Timothy Burgess, Chair  
William L. Fleming, Vice Chair  
Emilia R. Castillo  
Dr. Edward Palmason

Not in attendance were:  
Lue Rachelle Brim-Donahoe  
Candy S. Marshall  
Jeri A. Rowe